

1 A Yes.
2 Q Is that for the stone portion of
3 the wall?

4 A Yes, that is correct.

5 Q Did you actually have an
6 opportunity to observe if those rods had been
7 reinforced?

8 A If those rods were reinforced, yes,
9 there were steel plates on them but they were
10 somewhat rusty.

11 Q You testified that most likely
12 those rods were reinforced with concrete?

13 A I don't know about those in the
14 stone wall, I only referred to the so called
15 "deadman" that were holding the block wall.

16 Q Okay?

17 A But some type of rods were put
18 through the stone wall quite some time back.

19 Q So there are two different types of
20 rods?

21 A Yes, or to different types of
22 installations with similar rods.

23 Q And the rods are also known as tie
24 backs, am I using the terms correctly?

25 A Yes.

1 Q And the reinforcement bars of the
2 backs that are reinforcing the stone wall you
3 observed rusting; is that accurate?

4 A Say again that again.

5 Q You observed rusting on those --

6 A Yes.

7 Q How many of those tie backs were
8 rusted?

9 A Well each of them was and I don't
10 know the total number but I think it was anywhere
11 from four to six, maybe a bit more but they were
12 each rusted, yes.

13 Q Now, the portion between the-- let
14 me refer to your respect, in your report you
15 mentioned that the upper wall shifted toward 2
16 Lafayette?

17 A Yes.

18 Q Could you describe what you mean by
19 shifted?

20 A It was a lateral movement from 2
21 Lafayette.

22 Q Meaning going straight across?

23 A Yes, but I think also there was a
24 bit of a tilt that occurred as well.

25 Q On the --

1 A So it tilted a little towards
2 Lafayette and it slid.

3 Q Was that obvious from the Huguenot
4 side as well as the Lafayette side?

5 A Not as easily from the Huguenot
6 side but you could see that the tilt in the wall
7 occurred by the surface of the back of the wall and
8 the other part could be seen from 2 Lafayette.

9 Q How far is that shift or leaning as
10 you said, was going along that --

11 A A section of about perhaps a third
12 or a quarter where the wall shifted out, the rest
13 was reasonably aligned with the stone wall.

14 Q And you believe the tie backs were
15 correcting that condition?

16 A At which portion of the wall?

17 Q Of that shift that you are
18 referring to that went about --

19 A Two possibilities, again, it could
20 have been that originally these were installed and
21 ment to hold the block wall and prevent movement
22 and maybe those that were unseen below the grade
23 shifted slightly and finally took hold or
24 corrective work was done later putting in the rods
25 to devices concrete or whatever and it's the steel

1 plates that are visible.

2 Q If the first scenario is true and
3 it's original construction, is it fair to say, in
4 your experience, that with time the condition will
5 only get worse?

6 A Yes, that the condition had
7 stabilized.

8 Q Stabilize or would get worse?

9 A No, stabilize.

10 Q Over time if a condition from old
11 construction has caused the wall to shift, you
12 would expect the shift to stop on it's own or would
13 you expect it to get worse?

14 A I thought that if the rods were put
15 in and as part of the original construction, there
16 might have been some initial movement that finally
17 locked in by gravity by friction and that there was
18 not going to be any additional movement.

19 Q And you would not expect any kind
20 of reinforcement to give way?

21 A No.

22 Q Over time?

23 A No, I did not expect that to occur,
24 no.

25 Q Interesting. And if it is work that

1 is done in a corrective fashion, would you say that
2 the condition has been corrected?

3 A I think that was the intent, yes.

4 Q Would you say the condition had
5 been corrected, regardless of whether the intent
6 was there or not, would you say the condition has
7 been corrected?

8 A I would say the work was done
9 stabilizing and it correcting it, yes.

10 Q Again, you did not investigate
11 whether or not these tie backs had actually been
12 reinforced with concrete, is that fair to say?

13 A No, I did not have the opportunity
14 to do any investigation.

15 Q Was it within your expertise to do
16 that sort investigation or further analysis?

17 A No, it would require investigating
18 the rear yard to find out what the material is.

19 Q I take it that is an expense, quite
20 a large expense?

21 A Yes, it a large expense.

22 Q Approximately, how much?

23 A I don't know but it would be fairly
24 expensive, a new driveway would have to be torn up,
25 including other areas, so those places would have

1 to be restored and the expense would be
2 substantial.

3 Q You said earlier that there were
4 several reasons for the stucco work, one of which
5 was to make the wall look nicer?

6 A Yes.

7 Q Again, with time and water and
8 elements, is it fair to say that the stucco would
9 eventually give way or wear out or something else?

10 A It's possible with weather being
11 another condition.

12 Q Approximately, how long with the
13 type of stucco and the type of cracks that you
14 observed?

15 A I would think that if all things
16 stay as I see them, some cracks with the
17 temperature might develop on the wall but that is
18 about all I would expect.

19 Q In your experience, do you consider
20 a wall to be stable if a portion of the wall has
21 shifted away?

22 A It could be, yes, sure.

23 Q It could be?

24 A In this case, yes.

25 Q It's possible that it could not be;

1 correct?

2 A It is possible, it's a matter of
3 opinion.

4 Q You have expressed that opinion
5 without knowing the nature of this reinforced tie
6 back that you testified to earlier?

7 MRS. MULLINS: Objection, Your
8 Honor.

9 THE COURT: Overruled.

10 A That is correct.

11 MRS. FIORE: Thank you, no further
12 questions.

13 THE COURT: Redirect?

14 MRS. MULLINS: Just one question.

15 REDIRECT EXAMINATION BY MRS. MULLINS:

16 Q The tie backs in the upper portion
17 of wall, these large one by one foot plates that
18 have rods I guess?

19 A Yes.

20 Q In your experience, in your thirty
21 years as an engineer, is it more probable than not
22 that something is at the end of those rods that
23 they are connected to?

24 A It has to be.

25 Q It would not make sense to insert a

1 rod without any fixation of that end of it, would
2 it?

3 A It would be totally useless.

4 Q You talked about the rusting of
5 some of tie backs, that was in reference to the
6 lower portion of the stone wall; is that correct?

7 A Yes.

8 Q And clearly your opinion is that
9 the wall is stable as is the upper portion; is that
10 right?

11 A Yes.

12 MRS. MULLINS: I have nothing
13 further, Your Honor.

14 MRS. FIORE: One more question, Your
15 Honor.

16 THE COURT: Please make it within the
17 scope of.

18 MRS. FIORE: It is.

19 RECROSS EXAMINATION BY MRS. FIORE:

20 Q What is the condition of those
21 upper tie back on the concrete?

22 A The steel plates are rusted but the
23 rods are quite good looking, there is no rust on
24 the roads at all maybe they are stainless steel.

25 Q Which portion is rusted?

1 A The upper portion, the lower wall,
2 the tie backs.

3 Q Those are the tie backs I'm talking
4 about, so which portion of-- you said they are
5 rusted, which portion is rusted?

6 A The steel plates have some surface
7 rust, the rods themselves do not.

8 MRS. FIORE: Thank you for your
9 testimony.

10 THE COURT: Call your next witness.

11 MRS. MULLINS: We call John Coppola,
12 an engineer.

13 MRS. FIORE: I object. We already
14 heard from one expert. I think that this is
15 repetitive and unnecessary and I would like
16 at this time if Your Honor is inclined to
17 not grant my objection, I ask for an offer
18 of proof.

19 THE COURT: Let's hear an offer of
20 proof.

21 MRS. MULLINS: He going to very, very
22 belief. There has been obviously sufficient
23 testimony by Mr. Annunziata on the issues
24 of the wall. I did have Mr. Coppola look at
25 the wall and he also an engineer structural

1 civil engineer with many years of
2 experience and he would only render an
3 opinion as to the stability of the wall.
4 The case here --

5 THE COURT: That is what the case is
6 about, so in light of offer of proof, I am
7 inclined to allow this witness to testify.

8 MRS. MULLINS: Thank you.

9 THE COURT: Step up and I will swear
10 you in.

11 J O H N C O P P O L A, a witness herein, having
12 been first duly sworn by the Court, was examined
13 and testified as follows:

14 DIRECT EXAMINATION BY: MRS. MULLINS:

15 Q Mr. Coppola, good morning. Could
16 you tell the Court your profession please?

17 A Professional engineer in the State
18 of New York and have a bachelors degree in civil
19 engineering from Polytec University.

20 Q When did you graduate from
21 engineering school?

22 A 1974 at night, evening division.

23 Q Are you also licensed by the State
24 of New York?

25 A Yes, I am.

1 Q When did you receive your license?

2 A 1976.

3 Q Could you briefly tell the Court
4 your employment history as an engineer?

5 A In 1962 I worked with the City of
6 New York in the Department of Public Works. I
7 retired in 1992 in various positions within the
8 agency. Since 1992, I have been doing private work.
9 The last two or three years, I have been consulting
10 for a specific firm in Valhalla as a professional
11 engineer.

12 Q During the course of your
13 employment and as an engineer for these years that
14 you were licensed, did you have occasion or did you
15 have occasion to view and inspect or be involved
16 in the design of retaining walls?

17 A Yes, I have.

18 Q Could you estimate, for the Court,
19 over the course of your career, in numbers, how
20 many retaining walls have you been involved with,
21 whether the inspection or design?

22 A I designed approximately a dozen and
23 inspected the construction of and supervised the
24 construction of close to a hundred, not all the
25 walls I designed were concrete but I designed